

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

Marlene Hall and Larry Hall,

Plaintiffs,

v.

Civil No. 06-456 (JNE/JJG)
ORDER

Lake St. Croix Villas Homeowner's Association,
Mary Parr, and Robert Swenson,

Defendants.

This case is before the Court on the Lake St. Croix Villas Homeowner's Association (Association), Mary Parr, and Robert Swenson's Motion to Dismiss and Motion to Amend Pretrial Scheduling Order. The Court denies the motion to dismiss. For good cause shown, the Court grants the motion to amend. *See* D. Minn. LR 16.3(a).

The Association, Parr, and Swenson assert that the Court should dismiss the remaining claims of Marlene Hall and Larry Hall with prejudice because the Halls failed to appear at properly noticed depositions and to prosecute this action. *See* Fed. R. Civ. P. 37(d), 41(b). The Court declines to dismiss the Halls' remaining claims at this time. *See Hunt v. City of Minneapolis*, 203 F.3d 524, 527 (8th Cir. 2000); *Aziz v. Wright*, 34 F.3d 587, 589 (8th Cir. 1994). Instead, the Court orders Marlene Hall and Larry Hall to submit to depositions on or before December 21, 2007. The Court expressly warns Marlene Hall and Larry Hall that failure to submit to depositions will result in the dismissal with prejudice of their remaining claims.

Based on the files, records, and proceedings herein, and for the reasons stated above, IT IS ORDERED THAT:

1. The Association, Parr, and Swenson's Motion to Dismiss [Docket No. 87] is DENIED.
2. The Association, Parr, and Swenson's Motion to Amend Pretrial Scheduling Order [Docket No. 92] is GRANTED.

3. Marlene Hall shall submit to a deposition on or before December 21, 2007.
4. Larry Hall shall submit to a deposition on or before December 21, 2007.
5. The Pretrial Scheduling Order's discovery deadline is amended to permit the depositions of Marlene Hall and Larry Hall as set forth in this Order.
6. On or before December 28, 2007, the Association, Parr, and Swenson shall file an affidavit that states whether Marlene Hall and Larry Hall complied with this Order.

Dated: November 21, 2007

s/ Joan N. Ericksen
JOAN N. ERICKSEN
United States District Judge